

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF OKLAHOMA      **FILED**

JUL 2 2009

HARRELL L. JOHNSON, SR.,      )  
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                                      )  
Plaintiff,      )  
                                      )  
                                      )  
v.      )  
                                      )  
JOHNNY CANNON and      )  
BOB COLBERT,      )  
                                      )  
                                      )  
Defendants.      )

WILLIAM B. GUTHRIE  
Clerk, U.S. District Court  
By \_\_\_\_\_ Deputy Clerk

**No. CIV 07-294-Raw-SPS**

**OPINION AND ORDER**

Defendant Johnny Cannon has notified the court that he no longer is the Sheriff of Wagoner County, Oklahoma, and he has moved for substitution of parties [Docket #40]. Cannon asserts plaintiff's complaint does not clearly state whether the claims are against him in his individual capacity, his official capacity, or both, but he asks to substitute current Wagoner County Sheriff Bob Colbert as the defendant for any official capacity claims.

Because plaintiff is proceeding pro se, his complaint will be liberally construed to allege claims against the Wagoner County Sheriff in both capacities. *Cf. Houston v. Reich*, 932 F.2d 883, 885 (10th Cir. 1991). Furthermore, Defendant Cannon's unopposed motion to substitute should be granted, and Wagoner County Sheriff Bob Colbert is hereby substituted for Defendant Johnny Cannon in his official capacity. Defendant Johnny Cannon shall remain as a defendant in his individual capacity.

**ACCORDINGLY**, Defendant Johnny Cannon's motion to substitute party [Docket #40] is GRANTED, pursuant to Fed. R. Civ. P. 25(d).

**IT IS SO ORDERED** this 2<sup>nd</sup> day of July 2009.

  
**RONALD A. WHITE**  
UNITED STATES DISTRICT JUDGE